

## Message Text

LIMITED OFFICIAL USE

PAGE 01 GENEVA 01346 241524Z

ACTION EB-08

INFO OCT-01 EUR-12 IO-13 ISO-00 AGRE-00 CEA-01 CIAE-00  
COME-00 DODE-00 FRB-03 H-01 INR-07 INT-05 L-03 LAB-04  
NSAE-00 NSC-05 PA-01 AID-05 CIEP-01 SS-15 STR-04  
ITC-01 TRSE-00 USIA-06 PRS-01 SP-02 FEAE-00 OMB-01  
/100 W

-----241526 028828 /53

P R 241435Z FEB 77

FM USMISSION GENEVA

TO SECSTATE WASHDC PRIORITY 5438

INFO AMEMBASSY BRUSSELS

AMEMBASSY OTTAWA

AMEMBASSY PARIS

USMISSION EC BRUSSELS

AMEMBASSY THE HAGUE

LIMITED OFFICIAL USE GENEVA 1346

E.O. 11652: N/A

TAGS: GATT, ETRD, EEC

SUBJECT: DISC ITEM ON GATT COUNCIL AGENDA

REF: (A) EC BRUSSELS 01719, (B) GENEVA 1423

1. WE CALLED EC COMMISSION (LUYTEN) FEB. 24 TO TRY TO  
ELICIT FURTHER INFORMATION ON EC OBJECTIVE IN PUTTING  
DISC AND TAX PRACTICES OF FRANCE, BELGIUM, NETHERLANDS ON  
MARCH 2 GATT COUNCIL AGENDA. HE STILL NOT VERY SPECIFIC  
BUT INDICATED EC CONSIDERED IT ONLY NORMAL THAT THIS  
IMPORTANT MATTER, WHICH HAS NOW BEEN BEFORE COUNCIL OVER  
TWO MONTHS, WOULD BE ON AGENDA. HE INDICATED THAT COMMUNITY  
OBJECTIVE IS TO GET US TO ELIMINATE DISC AND THAT HE WOULD  
BE CALLING UPON US TO DO SO AT MARCH 2 MEETING. IT SEEMS  
CLEAR, HOWEVER, HE DOES NOT EXPECT ANY VERY FAR-GOING  
ACTION AT THAT PARTICULAR MEETING AND HE IN FACT NOTED US  
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 GENEVA 01346 241524Z

WOULD BE IN POSITION TO BLOCK ACTION WE DID NOT LIKE.  
WE HAVE NO EVIDENCE THAT EC HAS MOUNTED ANY CAMPAIGN  
TO ACHIEVE WIDESPREAD SUPPORT FOR THEIR POSITIO WHICH  
WOULD BE NORMAL IF THEY REALLY EXPECTED COUNCIL TO PRESS  
FOR ACTION. CONCERNING MANNER IN WHICH COUNCIL WOULD  
DEAL WITH PANEL REPORTS ON BELGIAN, FRENCH AND DUTCH  
PRACTICES, HE DECLINED COMMENT AND INDICATED REPRESENTATIVES

OF THOSE COUNTRIES (NOT COMMISSION) WOULD BE LEADING  
DISCUSSION IN COUNCIL MEETING.

2. HE DID RECOGNIZE DESIRABILITY OF ADVANCE INFORMAL  
DISCUSSION OF COUNCIL SCENARIO BEFORE MARCH 2 AND HAS  
INVITED ECOMIN AS WELL AS COUNCIL CHAIRMAN (DEGEER) AND  
REPS JAPAN, CANADA, GATT SECRETARIAT AND POSSIBLY SOME  
EC COUNTRIES TO LUNCHEON ON SUBJECT MARCH 1. STRONGLY  
HOPE OUR INSTRUCTIONS FOR COUNCIL MEETING WILL BE RECEIVED  
BY THAT TIME SO THAT WE CAN INFORMALLY TRY TO DEVELOP  
SCENARIO CONSISTENT WITH US OBJECTIVES.

3. WE ALSO DISCUSSED WITH GATT SECRETARIAT (LINDEN)  
QUESTION RAISED IN TREASURY (GADBAW) TELECON WHETHER  
NORMAL PRELIMINARY COUNCIL ACTION IN DEALING WITH PANEL  
REPORTS IS THEIR ADOPTION. LINDEN RESPONDED THAT IN HIS  
MEMORY (WHICH IS LONG) GATT COUNCIL HAD ALWAYS  
ADOPTED PANEL REPORTS. HE WENT ON TO NOTE, HOWEVER,  
THAT PAST PANEL REPORTS HAD TRADITIONALLY INCLUDED  
RECOMMENDATIONS, AND ACCORDINGLY BY ADOPTING REPORT,  
COUNCIL WAS ITSELF MAKING RECOMMENDATIONS PURSUANT TO  
GATT ARTICLE XXIII:2. HOWEVER, IN PRESENT CASE PANELS  
DID NOT MAKE RECOMMENDATIONS SO SITUATION IS SOMEWHAT  
DIFFERENT. WE NOTED THAT ADOPTION OF REPORTS BY COUNCIL  
WOULD NEVERTHELESS HAVE RESULT THAT COUNCIL WOULD THEN  
BE APPROVING PANELS CONCLUSIONS THAT TAX PRACTICES  
CONCERNED WERE INCONSISTENT WITH GATT AND THAT THERE WAS  
PRIMA FACIE CASES OF NULLIFICATION OF IMPAIRMENT IN ALL  
FOUR CASES. WE NOTED THAT AT LEAST ONE OF DEFENDANT  
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 GENEVA 01346 241524Z

COUNTRIES (FRANCE) HAD ALREADY GONE ON RECORD AS CONTESTING  
PANEL CONCLUSIONS CONCERNING ITS TAX PRACTICES AND SO  
WOULD PROBABLY BE RELUCTANT TO AGREE TO ADOPTION OF THAT  
PANEL REPORT. WE INDICATED WE DID NOT KNOW WHETHER US  
WOULD HAVE SUBSTANTIVE OBJECTIONS TO COUNCIL  
ADOPTING PANEL REPORT ON DISC, BUT WE SUSPECTED US WOULD  
IN ANY CASE NOT BE WILLING TO SEE SUCH ACTION IF COMPARABLE  
ACTION NOT SIMULTANEOUSLY BEING TAKEN WITH REGARD TO OTHER  
THREE PANEL REPORTS. FINAL POINT MADE BY LINDEN  
WAS THAT THERE DOES NOT SEEM TO BE ANY FORMAL  
NEED FOR ANY TYPE OF COUNCIL ACTION (ADOPTION, ENDORSEMENT,  
NOTING, ETC.) OF PANEL REPORTS THEMSELVES, PARTICULARLY  
IN THAT ARTICLE XXIII CONTAINS NO SPECIFIC REFERENCE TO  
PANELS. CATTO

LIMITED OFFICIAL USE

NNN

## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01-Jan-1994 12:00:00 am  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** MEETING AGENDA, TARIFF LIBERALIZATION  
**Control Number:** n/a  
**Copy:** SINGLE  
**Sent Date:** 24-Feb-1977 12:00:00 am  
**Decaption Date:** 01-Jan-1960 12:00:00 am  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 22 May 2009  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1977GENEVA01346  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
**Expiration:**  
**Film Number:** D770064-0550  
**Format:** TEL  
**From:** GENEVA  
**Handling Restrictions:** n/a  
**Image Path:**  
**ISecure:** 1  
**Legacy Key:** link1977/newtext/t19770214/aaaaamjk.tel  
**Line Count:** 111  
**Litigation Code IDs:**  
**Litigation Codes:**  
**Litigation History:**  
**Locator:** TEXT ON-LINE, ON MICROFILM  
**Message ID:** ee6fc1bf-c288-dd11-92da-001cc4696bcc  
**Office:** ACTION EB  
**Original Classification:** LIMITED OFFICIAL USE  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 3  
**Previous Channel Indicators:** n/a  
**Previous Classification:** LIMITED OFFICIAL USE  
**Previous Handling Restrictions:** n/a  
**Reference:** 77 EC BRUSSELS 1719, 77 GENEVA 1423  
**Retention:** 0  
**Review Action:** RELEASED, APPROVED  
**Review Content Flags:**  
**Review Date:** 23-Nov-2004 12:00:00 am  
**Review Event:**  
**Review Exemptions:** n/a  
**Review Media Identifier:**  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**SAS ID:** 3244086  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** DISC ITEM ON GATT COUNCIL AGENDA  
**TAGS:** ETRD, GATT, EEC  
**To:** STATE  
**Type:** TE  
**vdkgvwkey:** odbc://SAS/SAS.dbo.SAS\_Docs/ee6fc1bf-c288-dd11-92da-001cc4696bcc  
**Review Markings:**  
Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
22 May 2009  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009